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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,387	11/26/2001	Victoria I. Pettigrew	PET1P005	7268

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SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,387

Applicant(s)

PETTIGREW ET AL.

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledgment

1. The request and certification filed on 11/26/2001 has been considered.
2. The information disclosure statement filed on 2/12/2002 has been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 2-8 and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Duer (5,820,142).**

Duer in figures 1, 28-32 and 58 discloses a cart grip sanitary cover and method for providing a sanitary surface on a grip of a cart comprising a sanitary cover including a multiple layers (97) each with a top face, a bottom face, and a periphery formed therebetween. The bottom face of each layer has adhesive formed thereon for adhering to the top face of an adjacent layer. The multiple layers stacked with a bottommost layer attachable to a grip of a cart. Wherein the topmost layer of the sanitary cover is removable for exposing another layer therebeneath for providing a sanitary surface for being gripped by a user.

Regarding claims 3-7 and 14-18, Duer discloses the layers (97), which are flexible, formed of an elastomeric material, have a rectangular configuration, have an area substantially similar to an area of the grip of the cart and have a substantially similar shape and size.

Regarding claims 8 and 19, Duer discloses the layers (97), which stacked so that the peripheries thereof are in alignment.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duer (5,820,142) in view of Mainard et al. (5,470,087).**

Duer in figures 1, 28-32 and 58 discloses a shopping cart grip sanitary cover system comprising a shopping cart including a basket portion (not number) having a bottom and a plurality of sides coupled thereto and extending upwardly therefrom for defining an interior space for storing articles therein. The shopping cart also includes a plurality of wheels coupled to the bottom of the shopping cart for transporting the shopping cart and a handle assembly including vertical posts with inboard ends coupled to the sides of the shopping cart and extending upwardly and rearwardly therefrom. The handle also includes a substantially horizontal handle coupled to outboard ends of the

posts. Duer also discloses a plurality of sanitary covers (95) each including multiple flexible elastomeric layers (97) of a similar size and shape having a rectangular configuration with a smooth top face, a smooth bottom face and a rectangular periphery formed therebetween. The bottom of each layer have adhesive formed thereon for adhering to a top face of an adjacent layer. The layer stacked with a bottommost layer having a non-adhesive covering on the bottom face thereof for protecting the adhesive of the bottommost layer. Duer further discloses a dispensing container (171) with a substantially rectangular configuration including a bottom face, a top face and a plurality of side faces formed therebetween for defining an interior space for storing sanitary covers. The top face of the dispensing container includes an opening for dispensing the sanitary covers therefrom. Whereby the sanitary covers are each dispensable from the dispensing container and the non-adhesive covering is removable for attachment of the adhesive of the bottommost layer to the handle of the shopping cart. The elastomeric layers include a top layer, which is removable for exposing another layer therebeneath (col. 12, lines 33-39) for providing a sanitary surface for being gripped by the user. Duer fails to show the handle including a grip.

Mainard et al. in figures 1 and 3 discloses a shopping cart comprising a handle (16) including a grip (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shopping cart grip sanitary cover system of Duer with the shopping cart having a handle including a grip as taught by Mainard et al. in order to provide a pleasant feeling grip for the cart user.

8. Claims 9-12 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duer (5,820,142) as applied to claims 2 and 13 above, and further in view of Kirkman (6,361,079).

Duer discloses the cart grip sanitary cover having the adhesive layer, but fails to show a non-adhesive layer.

Kirkman in figures 1a and 1b discloses labels for detecting counterfeit products comprising a non-adhesive covering (4) positioned on a bottom face of a bottommost layer (2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shopping cart grip sanitary cover system of Duer with the labels for detecting counterfeit products comprising a non-adhesive covering as taught by Kirkman in order to protect the adhesive layer before the sanitary cover covering the cart handle.

Regarding claims 10-11 and 21-22, Duer discloses a dispensing container (171) for storing a plurality of the sanitary covers. The dispensing container includes an opening for dispensing the sanitary cover therefrom.

Regarding claims 12 and 23, Duer discloses the cart including a shopping cart (179).

9. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duer (5,820,142) in view of Kirkman (6,361,079).

Duer in figures 2-3 discloses a cart grip sanitary cover and method for providing a sanitary surface on a grip of a cart comprising a sanitary cover (19 with a top face, a bottom face, and a periphery formed therebetween. The bottom face of each layer has adhesive formed thereon (col. 8, lines 27-29). Wherein the sanitary cover has an area

substantially similar to an area of the grip of the cart. Duer fails to show a non-adhesive layer.

Kirkman in figures 1a and 1b discloses labels for detecting counterfeit products comprising a non-adhesive covering (4) positioned on a bottom face of a bottommost layer (2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shopping cart grip sanitary cover system of Duer with the labels for detecting counterfeit products comprising a non-adhesive covering as taught by Kirkman in order to protect the adhesive layer before the sanitary cover covering the cart handle.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Forberg et al. discloses an elasticized dish cover, Boucher et al. discloses a handler cover and Frederick discloses a reuseable protective cover for shopping cart.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

HP *HP*
January 22, 2003


BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
4/22/03